

STATE OF MAINE
SUPREME JUDICIAL COURT
PROPOSED AMENDMENT TO
MAINE RULES OF CIVIL PROCEDURE

1. Rule 110A of the Maine Rules of Civil Procedure is amended to read as follows:

**RULE 110A. PREHEARING SCHEDULE AND PROCEDURE FOR CASES
INVOLVING MINOR CHILDREN**

(a) Family Law Magistrates. In all Family Division actions involving minor children, and subject to the Family Division Rules, including all actions that have been transferred to the District Court from the Probate Court, Family Law Magistrates shall have authority to: (1) hold case management conferences and other prehearing or pretrial conferences including judicial settlement conferences; (2) determine whether a party or counsel may attend a conference, mediation or hearing by telephone; (3) issue interim orders before judgment under Rule 107(a) and act on motions for expedited hearings under Rule 107(c); (4) issue final orders establishing or modifying child support; (5) order genetic testing; and (6) issue orders in child support enforcement actions. In uncontested proceedings, magistrates may issue divorce judgments, paternity judgments, parentage judgments, judicial separation decrees, final orders establishing parental rights and responsibilities, guardianship orders, name-change orders, and orders on post-judgment motions modifying any such original orders.

In contested interim proceedings, ~~with the consent of the parties,~~ magistrates may hear and decide interim orders establishing parental rights and responsibilities. In contested final proceedings under a pilot project established by the Chief Justice of the Supreme Judicial Court, with the consent of the parties, a magistrate may hear and decide ~~final divorce judgments~~ all elements of certain final contested actions for divorce with children, legal separation with children, parentage, or parental rights. When the parties are subject to a Protection from Abuse order, magistrates may amend the parental rights and responsibilities portion of the protection order to conform with the orders authorized above.

Nothing in these rules shall prohibit a judge from managing a case as provided in these rules.

(b) Case Management.

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(4) Interim Relief.

(A) Interim Orders Without Hearing. At any stage in the proceedings, a magistrate may enter interim orders with or without the consent of the parties or when a party is in default. Whether or not the parties agree, a magistrate may enter a Family Division Scheduling Order. ~~At their initial court appearance, the parties shall be advised of their right to have a judge determine interim parental rights and responsibilities. To exercise this right, a party must file a written request with the court clerk either before or at the time of their initial court appearance. In the absence of such a written request, the parties' consent will be presumed, and a magistrate may determine interim parental rights and responsibilities.~~

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Advisory Note – _____ 2022

The rule has been amended pursuant to P.L. 2021, ch. 723, § 6 (effective Aug. 8, 2022) (to be codified at 4 M.R.S. § 183(1)(D)(2)), to remove the process by which the parties had the right to have a judge determine interim parental rights and responsibilities. The statutory revision grants family law magistrates the authority to determine interim parental rights and responsibilities with or without the parties' consent.